

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:
Plaintiff,	:
	: MEMORANDUM AND ORDER
– against –	: 19-CV-5348 (AMD) (VMS)
DEBORAH PHILLIPS, JOHN DOE, MARY	:
ROE and XYZ CORPORATION,	:
Defendants.	:
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ANN M. DONNELLY, United States District Judge:

The plaintiff, the United States of America, commenced this action against the defendant Deborah Phillips and unidentified defendants John Doe, Mary Roe and XYZ Corporation (collectively, the “unidentified defendants”), seeking to foreclose on a residential mortgage on real property at 55 Wooded Court, Calverton, New York located in the town of Brookhaven, Suffolk County, New York (the “Property”).

On March 2, 2021, the plaintiff moved for default judgment of foreclosure and sale against the defendants. (ECF No. 12.) On March 4, 2021, I referred the plaintiff’s motion for default judgement to the Honorable Vera M. Scanlon. Judge Scanlon ordered the plaintiff to file supplemental submissions, which it did on August 17 and December 3, 2021.¹ (ECF Nos. 14, 17.) On January 7, 2022, Judge Scanlon issued a Report and Recommendation, in which she recommended that the case be dismissed against the unidentified defendants, the motion for default judgment be granted in part and denied in part with respect to Phillips, the Property be

¹ As Judge Scanlon notes, both of the plaintiff’s supplements have been filed as separate “motions” rather than supporting submissions, and will be terminated as motions filed in error. (ECF No. 20 at 3 n.3.)

foreclosed and sold, a referee be appointed to effectuate the sale of the Property and the plaintiff be awarded the following amounts to be paid from the sale of the Property, with any unpaid amounts to be due from Phillips:

- Unpaid principal in the amount of \$139,165.10;
- Interest in the amount of \$60,639.85 through December 31, 2021, plus additional interest in the amount of \$21.9233 per day from January 1, 2022 through the date of entry of judgment;
- Recaptured subsidy in the amount of \$4,153.20;
- Late charges in the amount of \$107.52;
- “Fees Currently Assessed” in the total amount of \$19,036.04, comprising maintenance fees of \$2,825.56, and taxes and insurance totaling \$16,210.48;
- Interest on the “Fees Currently Assessed” in the amount of \$3,678.36 through December 31, 2021, plus additional interest in the amount of \$3.00 per day from January 1, 2022 through the date of entry of judgment; and
- Attorneys’ fees in the amount of \$3,850.00 and costs in the amount of \$1,030.00.

(ECF No. 20 at 20 (emphasis omitted).) Judge Scanlon recommended that some undocumented entries be excluded from the award. (*Id.* at 14.) No objections have been filed to the Report and Recommendation, and the time for doing so has passed.²

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quoting *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (internal quotation marks omitted)).

² Phillips did not file a Hardship Declaration (ECF No. 20 at 4), and even if she had, the hardship stays provided under New York’s COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 ended on January 15, 2022.

CONCLUSION

I have reviewed Judge Scanlon's well-reasoned Report and Recommendation and find no error. Accordingly, I adopt the Report and Recommendation in its entirety. The case is dismissed against the unidentified defendants. The plaintiff's motion for default judgment is granted in part and denied in part with respect to Phillips, and the plaintiff is awarded damages as follows: \$139,165.10 in unpaid principal, \$60,639.85 in interest through December 31, 2021 with additional interest to be calculated at a rate of \$21.9233 per day from January 1, 2022 through the date of entry of judgment, \$4,153.20 in recaptured subsidy, \$107.52 in late charges, \$19,036.04 in "Fees Currently Assessed" relating to maintenance fees, taxes and insurance, \$3,678.36 in interest on the "Fees Currently Assessed" through December 31, 2021 with additional interest to be calculated at a rate of \$3.00 per day from January 1, 2022 through the date of entry of judgment, \$3,850.00 in attorneys' fees and \$1,030 in costs.

The Clerk of the Court is respectfully directed to enter a Judgment of Foreclosure and Sale, and to mail a copy of this order to the defendant Phillips.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
January 27, 2022